

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
SUSSEX COUNTY SCHOOL BOARD
Permit No. VPDES VA0090786**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and Sussex County School Board, for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Special Order.
6. “The School” means the Sussex County School Board owner of the Sussex School Complex Treatment Plant.

7. “Facility” means the Sussex School Complex Sewer Treatment Plant located in Sussex County, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “Permit” means VPDES permit No. VA0090786, which became effective October 19, 2001, and expires October 19, 2006.
10. “O&M” means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. The Sussex County School Board owns and operates the Sussex School Complex Sewer Treatment Plant in Sussex County, Virginia. This facility is the subject of VPDES Permit No. VA0090786, which allows the School to discharge treated wastewater into an unnamed tributary of Anderson Branch in strict compliance with the terms, limitations and requirements outlined in the Permit.
2. On October 30, 2002, the Department issued an NOV to the School for effluent violations of TKN and CBOD reported by the School on the DMRs for the April through August 2002 monitoring periods.
3. On February 25, 2003, the Department issued an NOV to the School for effluent violations of TKN, DO, TSS and CBOD reported by the School on the DMRs for the September through December 2002 monitoring periods. The School was also cited for failure to include details on the instances of noncompliance with the DMRs submitted for the September, October, and December 2002 monitoring periods.
4. The Department met with the School and its consultants on March 5, 2003, to discuss the NOVs above. The School stated that during initial design, it was anticipated that the connection of a new school building and a nearby planned subdivision that required domestic sewer ties would require a sizable treatment plant. After construction of the Facility had begun, it was discovered that the subdivision and the new school building would not be built. Solutions to address violations at the Facility were discussed during the meeting. The School has now partially closed a portion of the Facility to bring its design flow from 30,000 gallons/day to 15,000 gallons/day. They previously used a surge basin, and now diverted the flow past it directly into the anoxic zone of the Facility to provide for stronger influent. This aids the treatment process, but not enough to meet limits.
5. On March 28, 2003, the Department issued an NOV to the School for TKN and CBOD violations reported by the School on the DMRs for the September through February 2003 monitoring periods. The School was also cited for failure to

include details on the instances of noncompliance with the DMRs submitted for the January and February 2003 monitoring periods.

6. On June 16, 2003, the Department issued an NOV to the School for TKN and CBOD violations reported by the School on the DMRs for the April 2003 monitoring period. The School was also cited for failure to include data for pH minimum and details on the instances of noncompliance with the DMRs submitted for the April 2003 monitoring period.
7. On October 30, 2003, the Department met with the School to discuss permit compliance issues. The School stated that it was seeding the facility with activated sludge on a regular basis and that some system modifications are currently being installed.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders the School, and the School agrees, to comply with the terms described in Appendix A and with the interim effluent limits specified in Appendix B which are attached hereto and incorporated herein by reference. In addition, the Board orders the School, and the School voluntarily agrees, to pay a civil charge of \$3,600 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this order and shall note the Federal Identification Number for the School. Payment shall be by check, certified check, money order, or cashier's check payable to ATreasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the School, for good cause shown by the School, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violations issued to the School by DEQ on October 30, 2002, February 25, 2003, and March 28, 2003. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This

Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, the School admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. The School consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The School declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by the School to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The School shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The School shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The School shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the School intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and the School. Notwithstanding the foregoing, the School agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the School. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the School from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
- 12. By its signature below, the School voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2004.

Robert G. Burnley, Director
Department of Environmental Quality

The School voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia
City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of

_____, 2004, by _____, who is
(name)

_____ of the School Board, on behalf of said Board.
(title)

Notary Public

My commission expires: _____.

APPENDIX A

The School shall:

1. Within 30 days of the issuance of this Order, submit to the Department for approval, a corrective action plan (CAP) with an implementation schedule to ensure compliance with permit limits. The School shall implement the CAP immediately upon Department approval.
2. Within six months of the CAP implementation the School shall meet all permit limits. Should the CAP fail to bring the facility into compliance, within 8 months of the CAP implementation, the School shall submit a conceptual engineering report (CER) for the construction of facilities capable of meeting permit limits.

Pursuant to this Order communications regarding this Order, and its requirements shall be addressed as follows:

Frank Lupini
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060

The School shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion**.

APPENDIX B

Interim TKN and CBOD limitations

During the period beginning with the effective date of this Order and lasting until six months after approval of the CAP, discharges shall be limited and monitored by the School in accordance with VPDES Permit VA0090786, except as specified below:

	Monthly Average		Weekly Average	
TKN	14.0 mg/L	1.5 kg/d	14.0 mg/L	1.5 kg/d
CBOD	15.0 mg/L	1.7 kg/d	15.0 mg/L	1.7 kg/d